

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSHUA SHIREY,
Plaintiff,

CIVIL ACTION

v.

JOHN LADONNE, JANE HENRY, MD.
JOHN WIENER, DR. JANE MUSHDAQ,
JOHN FAUBERT, NEILON SHAMUS
AND JOHN WILLIAMSON, III,
Defendants.

NO. 18-4960

ORDER

AND NOW, this 3rd day of April, 2019, upon consideration of Defendants' motions to dismiss (ECF Nos. 19, 21, 22),¹ and Plaintiff's opposition thereto (ECF No. 23), it is hereby

ORDERED that:

1. Defendant Weiner's Motion to Dismiss (ECF No. 19) is **DENIED**.
2. Defendants Mushtaq and Henry's Motion to Dismiss (ECF No. 21) is **DENIED**.
3. Defendants Ladonne, Faubert, Nealon, and Williamson's (collectively "Commonwealth Defendants") Motion to Dismiss (ECF No. 22) is **GRANTED IN PART AND DENIED IN PART** as follows:
 - a. The Motion to Dismiss Plaintiff's claims for damages against the Commonwealth Defendants in their official capacity is **GRANTED**.
 - b. The Motion to Dismiss Plaintiff's Eighth Amendment claims against Defendant Ladonne is **DENIED**.
 - c. The Motion to Dismiss Plaintiff's Eighth Amendment claim against Defendant Faubert is **DENIED**.
 - d. The Motion to Dismiss Plaintiff's Eighth Amendment claim against Defendant Nealon is **GRANTED**. Plaintiff's Eighth Amendment claim against Defendant Nealon is **DISMISSED WITH PREJUDICE**.

¹ Plaintiff's Complaint misspells the names of, or otherwise misidentifies, several of the named Defendants. For clarity's sake, the Court will use the correct spelling of Defendants' names here.

- e. The Motion to Dismiss Plaintiff's Eighth Amendment claim against Defendant Williamson is **GRANTED**. Plaintiff's Eighth Amendment claim against Defendant Williamson is **DISMISSED WITHOUT PREJUDICE**.
- f. The Motion to Dismiss Plaintiff's Fourth Amendment claim against Defendant Williamson is **GRANTED**. Plaintiff's Fourth Amendment claim against Defendant Williamson is **DISMISSED WITH PREJUDICE**.
- g. The Motion to Dismiss Plaintiff's Due Process claim against Defendant Williamson is **GRANTED**. Plaintiff's Due Process claim against Defendant Williamson is **DISMISSED WITH PREJUDICE**.
- h. The Motion to Dismiss Plaintiff's Equal Protection claim against Defendant Williamson is **DENIED**.

BY THE COURT:

/s/Wendy Beetlestone, J.

WENDY BEETLESTONE, J.